

AUG 11 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

ARTURO HERNANDEZ-RODRIGUEZ;
MARIA DEL REFUGIO CRUZ,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 06-71503

Agency Nos. A75-760-465
A75-760-466

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 7, 2006**

Before: SCHROEDER, Chief Judge, REINHARDT and HAWKINS, Circuit Judges.

Respondent's unopposed motion to summarily deny in part and dismiss in part
is granted. Summary disposition is appropriate as to petitioner Maria Del Refugio

* This disposition is not appropriate for publication and may not be cited to or by
the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral
argument. *See* Fed. R. App. P. 34(a)(2).

06-71503

Cruz is appropriate because she lacked ten years continuous physical presence for cancellation of removal, which was not disputed before the agency or in this court. *See* 8 U.S.C. § 1229b(b)(1)(A); *United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard for summary disposition).

Dismissal as to petitioner Arturo Hernandez-Rodriguez is appropriate because he raises no colorable constitutional or legal claim as to the agency's discretionary determination of lack of exceptional and extremely unusual hardship. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003).

Respondent's motion for an extension of time to file the certified administrative record is denied as unnecessary because the record was filed before the May 19, 2006 due date. All other pending motions are denied as moot.

The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DISMISSED IN PART and DENIED IN PART.